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*The nation's most influential advocacy organization  
protecting children against sex, violence and profanity in entertainment*

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BY ELECTRONIC FILING

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, DC 20554

Re: TV Ratings System and Oversight Monitoring Board, MB Docket No. 19-41

Dear Ms. Dortch:

The Parents Television Council is a non-partisan, non-profit organization working to create a safe and sound entertainment media environment for children and families. Since its establishment in 1995, nearly 1.4 million Americans have joined with the PTC. Over the past two decades, no other organization in the nation has been more acutely-focused on television content and the manner in which the television content ratings have been applied. We respectfully offer our Public Comments to the FCC's review of the TV Ratings System and Oversight Monitoring Board, MB Docket No. 19-41.

### **Introduction**

Most of us have experienced the occasion in a grocery store where we pick up a box of food that we are considering for purchase. We look at the back of the box and review the ingredients and nutritional value; and we weigh whether that particular product is something we want to ingest into our bodies. Americans rely on the accuracy of that information; and they rely on some level of oversight that ensures the system's integrity. The TV Content Ratings System and its oversight is substantially similar to this food analogy, especially for concerned parents who are considering whether programming is appropriate for their children to ingest. Just like food, the entertainment product information must be accurate, and there must be reputable oversight to ensure the integrity of the system for labeling it. Sadly, with the implementation of the system adopted by the FCC's 1998 Report and Order, neither has proven to be the case.

The PTC is uniquely qualified to comment in this proceeding. We digitally record and archive every hour of primetime broadcast television network programming. We also record a growing volume of original entertainment programming that airs on basic cable; and we are now monitoring original programming on digital platforms like Netflix. (To date we have recorded approximately 200,000 hours of TV network programming.)

Through our proprietary Entertainment Tracking System (ETS) database, we monitor as much of that recorded program content as possible. By logging instances of sex, violence, profanity and other adult-themed material into ETS, we can accurately track the volume and degree of explicit television content; we can track where and when it airs; and we know which corporate sponsors are underwriting the programming via their advertising dollars. We also note the content rating (and any content descriptors) assigned to every program we log in ETS; therefore our trained Entertainment Analysts are able to alert other PTC staff when program content appears to be misrated.

### **Accuracy of the Ratings Being Applied to Television Programming**

“We may not like what Hollywood creates, but at least we can make sure it’s rated accurately.”

Those words were spoken to me at breakfast in Los Angeles on June 6<sup>th</sup>, 2016, by the then-Chairman of the TV Oversight Monitoring Board, Senator Chris Dodd. I have no doubt that Senator Dodd meant what he said to me that morning; at the time he was, after all, the proud father of two young daughters. But the sad reality is that the promise of accurate content ratings was broken long before his tenure as Chairman of TVOMB; and the broken promise continues unabated today.

With our sophisticated recording and tracking system, the PTC has gathered data that has empirically proven the TV Content Ratings System routinely to be inaccurate and inconsistent. We could cite hundreds, if not thousands, of specific instances where television programming was rated as appropriate for children when it likely should not have been so rated. It would be nearly impossible to enumerate all misrated content here, so we offer the following short list of examples from recent years:

- A lengthy scene with four young people (two couples) explicitly engaged together in sexual conduct, with the two males shown fondling and caressing the two women’s breasts;
- A man stabbed a woman to death as she was performing oral sex on him in the front seat of his car;
- A sex scene where the woman tells her male partner to “stick your finger in my ass,” and when he asks if it is pleasuring her, she says “try your thumb;”
- A teen-targeted cartoon that included a joke about raping 9-year old girls;
- A situation-comedy program with a nude little boy whose genitals are pixilated;
- A drama showing a woman committing suicide by shoving an icepick into her own eye socket;
- A Disney-owned ABC network program that joked about a school principal sleeping with schoolboys, and which used “ass, bitch, butt head, douche, slut, slut shamer, slut bag, and slut basket” in one sentence. (Note that this particular program was rated TV-PG, which is the same moniker Disney uses for *Cinderella*, *Inside Out* and the *Good Dinosaur*.)
- A crime drama showing a woman’s throat being slit so graphically that you see the knife pulled across her neck, with blood pouring such that she drowns in her own blood;
- An episode of a so-called “family comedy” that featured a high school girl contemplating breast implants, and when her guardian stuffs her bra with silicon gel sacks and walks into a restaurant with her, the teenager suggested the guardian was “acting like she was the mayor of Tit Town;”
- A comedy where a male cheerleader lifts a female cheerleader into the air, then looking up her skirt he is hit in the face with menstrual blood;
- A sexually-charged reality dating show called *Dating Naked* where, throughout each and every episode, all participants are nude (but with genital areas blurred);
- A fantasy drama “re-imagination” of the *Wizard of Oz* that aired on NBC, in which a female character happens upon a rusted-frozen “tin man” and then masturbates him (genitalia was not shown).

Please understand that these examples are not just cherry-picking for PR purposes; rather they are reflective of programming that airs daily, yet is routinely rated as appropriate for children aged fourteen **or in some cases even younger**. And increasingly explicit dialogue is coming not just from adult characters but from the child characters on these programs.

Simply put: If a parent were to view the content examples referenced above and learned that all were rated either TV-PG or TV-14, then they would conclude that one of two things must be occurring: Either the TV networks are improperly applying the content ratings in accordance with the guidelines adopted for each age moniker; or the guidelines applied to each age rating are wildly out of line compared to contemporary standards that most parents would find acceptable for a PG or 14 content rating.

We offer for the record the following links to research reports produced by the PTC which document content examples that were explicit, yet which were rated either TV-PG or TV-14:

[Lewd By Example \(2018\)](#)

[A Dress Rehearsal for Tragedy \(2018\)](#)

[We're Not in Kansas Anymore \(2017\)](#)

[Trash Talking Teens \(2016\)](#)

[Protecting Children or Protecting Hollywood? \(2016\)](#)

[The Real O'Neals Mini-Study \(2016\)](#)

In addition to content that we believe was rated incorrectly, we have also documented the exact same episodes of the exact same programs airing on different networks, but with the two networks rating the program differently. One example of this is the program *Medium*, which was rated TV-PG on CBS but was rated TV-14 on NBC. Other program content is routinely rated differently among and between TV networks.

Most major corporate sponsors of television programming have a policy of not advertising on programming rated TV-MA (mature audiences only). Therefore the TV networks face an inherent financial conflict of interest: if they rate mature content as TV-MA, they risk losing millions of advertising dollars per episode.

Please be assured that our public comment here today, as well as the years of fierce advocacy leading up to this public comment, are in no way intended to attack or malign the integrity of individual TV network employees who are tasked with the application of content ratings. Their job isn't easy. Over the years I have met numerous broadcast standards staffers, and I gladly consider them to be friends and acquaintances. But with that being said, the FCC must acknowledge, understand and appreciate the inherent flaws of a system – a system that parents are told to rely upon each and every day to protect their children – where a TV network profits from an inaccurate content rating, yet its employees are tasked with the accurate deployment of content ratings.

#### **TV Oversight Monitoring Board's Effectiveness at Addressing and Responding to Public Concerns**

For several years, the PTC has publicly voiced concern about the secretive dealings and inherently flawed structure of the TV Parental Guidelines Oversight Monitoring Board (TVOMB). After I was personally invited to attend a TVOMB meeting (that meeting having been brokered by former FCC Chairman Wheeler) in June of 2014, our concern for TVOMB morphed beyond dismay and into downright horror. What I witnessed literally shocked my conscience; and keep in mind that this is the

organization tasked with the oversight of a system that parents are told to rely on every day in order to make informed choices about the media consumption of their children.

Leading up to my attendance at the June 2014 meeting, I asked the TVOMB representative if I could invite a journalist who covered the beat, so that he or she could report on the dialogue. I specifically mentioned two reporters, one from *Broadcasting and Cable* and the other from the *Associated Press*. Both reporters had written on the PTC's work in prior years, both had been fair in their reporting, but neither was particularly friendly to the PTC's efforts. I was told by the TVOMB representative that no member of the press would be allowed to attend.

I then asked if I could invite someone from the FCC to sit in on the meeting; and I specifically suggested Matthew Berry from Commissioner Ajit Pai's office, and who had served previously as the FCC's General Counsel. Again I was told absolutely no. I said it was concerning that there was no transparency for a group whose work impacted children and families every day; but I was told that under no circumstances would any independent observer be permitted to attend the TVOMB meeting.

At that meeting I played a video with a number of explicit content examples that had been rated either TV-PG or TV-14. One of the video clips was the aforementioned "stick your finger in my ass" scene from a MTV program rated TV-14. I directly asked the Viacom employee who both approved the TV-14 rating and who sits on the TVOMB how such content could possibly be rated as appropriate for children. She shrugged, said that they had talked about it internally, and decided that the TV-14 rating was appropriate. The system is subjective, she said. But is not the TVOMB's purpose to make the system more **objective**?

In recent years the PTC has attempted to raise content rating concerns directly with TV industry executives and with the TVOMB. On a handful of occasions we have received a response; but most of those replies stated disagreement with our opinion that a rating was inaccurate. (For instance, in the *Dating Naked* program content described above, I personally communicated with the Viacom broadcast standards executive about the sexual content; but I was told that the program is about "relationships" and was rated correctly, this despite the ubiquitous nudity and the graphic sexual situations depicted or discussed in the program.)

There were three instances where our outreach resulted in a change to a content rating. *Walking Dead* was increased from TV-14 to TV-MA; an episode of the *Oprah Winfrey Show* featuring instructional use of sex vibrators was raised to TV-MA for repeat broadcasts after the initial airing was TV-14; and a basic cable network acknowledged their error in a TV-14 rating of an unedited version of the film *Pulp Fiction*. But most of the time our outreach efforts receive no response at all.

If it is so difficult for the Parents Television Council, with its expertise and research resources, to engage in a meaningful dialogue with TVOMB and the networks, then it is virtually impracticable for an average parent to do so. Furthermore, the parents we speak with are unaware of the existence of TVOMB; unaware that ratings are applied by the networks themselves, as opposed to being applied by an independent body like the MPAA's system; and unaware that it is up to them to offer any complaint if they feel a content rating is inaccurate.

In the months and years following our meeting with TVOMB, the PTC has learned the following:

The makeup of the 24-member TVOMB is, per paragraph 10 of the FCC's Report and Order, to include "five non-industry members from the advocacy community." Based on a review of the TVOMB website,

two of those five non-industry members are Call for Action and Entertainment Industries Council, both of which are industry-controlled and industry-funded organizations that have nothing to do with parents, families or advocacy about age-inappropriate content. This Board composition violates both the spirit and the letter of the FCC's Report and Order. We have offered to participate as TVOMB members, but that request was swiftly dismissed. The only plausible reason for that dismissal is that we would demand **improvement**, rather than standing for the *status quo*.

Other than the June 2014 meeting, we are unaware of TVOMB ever having actually met. They were forced to meet that day, and to include me in the meeting, in order to assuage the concerns of the FCC's Chairman. But our sources suggest no such meetings otherwise have taken place.

TVOMB historically undertakes consumer research polling when faced with intense political pressure. Contemporaneous to my meeting in June of 2014, TVOMB conducted and released research polling data; contemporaneous to my 2016 breakfast meeting in Los Angeles with Senator Dodd, TVOMB conducted and released research polling data. And contemporaneous to this current FCC review, TVOMB has entirely revamped its website. The only time TVOMB takes any action is when it needs political cover and in order to defend its *status quo*.

TVOMB has engaged Hart Research Associates to conduct consumer surveys that have uniformly delivered the type of polling results that might be found in a North Korean election. According to their 2016 polling [data](#), 96% of parents are satisfied with the ratings. But TVOMB's PR is wholly inconsistent with the findings from research conducted by the [Kaiser Family Foundation](#), by [Zogby](#) (at PTC's request), and even by [Costco](#). The corporations that employ 21 of the 24 members of TVOMB stand to profit financially if there is no change to the *status quo*. It is no coincidence that TVOMB works to preserve it, and it is only logical that they will pay to produce and distribute polling data whenever it is threatened.

For at least one year (late 2017 through late 2018) the public was unable to communicate in any way with TVOMB. This is because the TVOMB phone and email address provided to the public went unattended due to the shuttering of the lobbying firm The Podesta Group, which handled TVOMB's incoming communications from the public. We received messages from members of the public who were frustrated by the process. It was only recently that former Podesta Group staffers, now employed by a different lobbying firm, Cogent Strategies, appear to be responding again to incoming public communications.

For a regime that parents are told to rely upon each and every day, it is vexing that there are so many unknowns about TVOMB. Here is short list of what we do **not** know:

Besides the Chairman, the role of which is defined in the FCC's Report and Order, who are TVOMB's other 23 members? What are their qualifications to serve? Who appoints them? How long is their tenure? How are they replaced? How is their effectiveness gauged? When, where and how often do they meet? When they meet, what do they do? How are public inquiries handled? How does TVOMB expect the public to know they exist or how to contact them? Why aren't meetings open to the public? Why can't FCC personnel attend meetings? Why can't members of the press attend meetings and report on what takes place?

What should real oversight look like? That question must be answered by the FCC, if not in this regulatory review then in a subsequent inquiry. A symposium of experts in the field could be convened; international best practices could be adopted here in the United States; the ratings system could be brought into the 21<sup>st</sup> Century. But most assuredly, real oversight must not look like its current form.

## Conclusion

With so much explicit content within a child's reach, families urgently need a television content ratings system they can rely upon. In order for the industry's prophylactic remedy of choice, the V-chip, to be of any value to parents, television programming must carry a content rating that is accurate, consistent, transparent and publicly accountable. There is growing evidence suggesting that the existing television content ratings system is none of these four things, and it is failing parents.

Despite the growing availability and popularity of over-the-top streaming, most children are still spending more time watching traditional television than with any other media form – and most of that viewing is happening in real time (i.e. it doesn't include streaming content online or time-shifted viewing). In poor and rural areas where high-speed internet connections are less available, families may not even have the ability to opt-out of the traditional broadcast and cable model. A more accurate ratings system, and a more accountable system of oversight, would bring immense and immediate benefits to these families.

For those families who are increasingly reliant on digital media platforms, and who have chosen to "cut the cord", the FCC must consider the longer-term value that a more accurate ratings system, and a more accountable system of oversight, will bring. Netflix, Amazon Prime, Hulu, Apple TV, Roku, and a host of other OTT services will also need a robust and dependable content rating system so that parents can more effectively control the media consumption of their children. How the FCC responds to this congressional mandate to report on the current ratings system, and its oversight, is strategic for the future of digital media.

Ten years have elapsed since the Congress passed, and President Bush signed into law, the Child Safe Viewing Act. That measure called on the FCC to evaluate whether children were being adequately protected from harmful and explicit material. Rather than undertaking a thorough evaluation of the issue, the FCC responded by publishing a report that was little more than a summary of public comments it had received on the issue; and it included a promise – thus far a hollow promise – to do more. But nothing more has ever happened. We urge the FCC not to repeat here its unhelpful steps from its CSVA review.

Over the past two years, the FCC has been diligently pursuing a path to modernize its rules and regulations. We urgently call on the Commission to recognize the need for modernization of both the application and the oversight of the TV Content Ratings System.

Thank you.

Respectfully submitted,



Timothy F. Winter  
President